

**MEMORANDUM OF AGREEMENT
BETWEEN
THE NATIONAL CAPITAL PLANNING COMMISSION
AND
THE UNITED STATES DEPARTMENT OF STATE, OFFICE OF FOREIGN MISSIONS
REGARDING
THE REVIEW OF CHANCERY DEVELOPMENT
AT THE FOREIGN MISSIONS CENTER**

A. Parties and Authorities

This Memorandum of Agreement (MOA) is entered into by and among the National Capital Planning Commission (NCPC or Commission) and the United States Department of State (the Department), Office of Foreign Missions (OFM), referred to collectively as the “Parties” and individually as a “Party,” pursuant to 40 U.S.C. §§ 8722 (b)(1) and (d) which authorizes NCPC to review projects on land owned by the Federal government in the District of Columbia (District) from a planning and zoning perspective and pursuant to the Foreign Mission Act (FMA), 22 U.S.C. §§ 4301-4316, which among others, authorizes the Department to review and facilitate the operations of foreign missions in the United States (U.S.) and the terms and conditions by which benefits may be provided to foreign missions including the acquisition of land for use by a foreign country for chancery purposes.

B. Basis for the Memorandum of Agreement

1. This MOA is the shared understanding of the Parties with regard to the review process for development on approximately 30 acres of federally owned property located at the former Walter Reed National Military Medical Center in Washington, D.C. The property to be developed is known as the Foreign Missions Center (FMC).
2. The FMC is being developed for use by foreign diplomatic missions as individual chancery sites. The underlying property for each chancery will remain in federal ownership, and the Department intends to lease sites at the FMC to foreign countries on a long term basis for chancery development.
3. The Parties acknowledge a shared desire to facilitate the secure and efficient operation of Foreign Missions at the FMC in a manner fully consistent with U.S. interests. The parties also acknowledge the need for compliance with the requirements of the FMA.
4. The FMA allows exercise of authority under other laws pertaining to the location, replacement and expansion of chanceries provided the authority is exercised in a manner consistent with the requirements of the FMA.
5. The parties agree NCPC shall undertake the sole review of applications for the location, replacement or expansion of chanceries at the FMC. The parameters for NCPC’s review of chancery applications shall be those established by the FMA including, without

limitation: 22 U.S.C. § 4306(b)(2); 22 U.S.C. § 4306(c)(2)-(3); 22 U.S.C. § 4306(d)(1)-(6); and 22 U.S.C. § 4306(f).

6. NCPC's current authority extends by statute to development at the International Chancery Center (ICC) located at Connecticut Avenue and Van Ness Street, NW. The ICC is maintained and administered by the Department, and properties at the ICC are leased to individual foreign countries for chancery development. NCPC's review authority derives from an express grant in the International Chancery Act, which created the ICC, and NCPC reviews chancery development at the ICC based on its typical review procedures. This MOA is not intended to change this approach.
7. Based on the above, the Parties agree to proceed under the terms and conditions set forth in this MOA.

C. Roles and Responsibilities of the Parties

1. The Department of State, Office of Foreign Missions shall:

- a. Consult with NCPC at the earliest possible stage of an application for chancery development at the FMC.
- b. Submit applications to NCPC for chancery development that comply with the Development Controls incorporated into the Department's Master Design Plan for the FMC.
- c. Submit applications for chancery development to NCPC for review at a level agreed upon by NCPC and the Department (e.g., concept, preliminary, final or combined preliminary and final) and provide all application materials and information required for the particular level of review requested.
- d. Provide the information requested in accordance with subsection C.2.c., below upon receipt of a referral letter from NCPC.

2. The National Capital Planning Commission shall:

- a. Engage in early consultation with the Department on an application for chancery development.
- b. Schedule a chancery application on the Commission's agenda within 90 to 95 days of receipt of a completed application submitted on or before the Submission deadline established by the Commission for a particular meeting.
- c. Refer an application for chancery development to the Department of State, the Office of Planning, the District Department of Transportation and such other government

agencies as may be appropriate for a 60-day period to obtain information required by the Commission to evaluate an application in accordance with the decision-making criteria set forth in subsection C.2.f.i., below.

- d. Publish notice of a chancery application in NCPC's tentative and final agenda.
- e. Conduct informal proceedings before the Commission for all chancery applications. The proceeding shall focus on a staff presentation articulating the Executive Director's position on an application. A representative from the proposed Foreign Mission may make a presentation, as may OFM. The process shall include no cross examination, provided that the Commission may direct questions to those entities making presentations. Further, the process shall include public participation by those members of the public who express an interest in speaking or submit written comments, but only comments addressed to the requirements of the FMA at 22 U.S.C. § 4306(d)(1)-(6) shall be considered by the Commission.
- f. Evaluate chancery applications in accordance with the following criteria:
 - i. Criteria required by the FMA:
 - 1. The international obligation of the US to facilitate provision of adequate and secure facilities for the foreign mission in the nation's capital.
 - 2. Historic preservation . . . and in order to ensure compatibility with historic landmarks and districts, substantial compliance with . . . Federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.
 - 3. The adequacy of off street parking or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.
 - 4. The extent to which the area is capable of being adequately protected, as determined by the Secretary, after consultation with Federal agencies authorized to perform protective services.
 - 5. The municipal interest, as determined by the Mayor of the District of Columbia.
 - 6. The Federal interest, as determined by the Secretary.

- g. Render a final decision to “not disapprove” or “disapprove” a chancery application not later than six months after the date a completed application is filed. The Commission’s determination shall not be subject to the administrative proceedings of any other agency or official except as may be provided by the FMA.

D. Terms of the Memorandum of Agreement

1. Effective Date. This MOA shall take effect upon the date of the last signature.
2. Modification. This MOA may be modified at any time by the mutual consent of the Parties.
3. Termination. This MOA may be terminated by either Party with written notice to the other Party.

E. DISPUTE RESOLUTION

The Parties will consult with one another about any disputes between them arising under or relating to this MOA.

F. POINTS OF CONTACT

1. POC. To facilitate implementation of this MOA, the following individuals shall serve as Points of Contact (POC):
 - a. For NCPC:
Diane Sullivan
Director, Urban Design and Plan Review Division
401 9th Street, NW, Suite 500 N
Washington, D.C. 20001
(202) 482-7244
diane.sullivan@ncpc.gov
 - b. For OFM: Clifton Seagroves
Director (Acting)
Office of Foreign Missions
2201 C Street, NW Room 2236
Washington, DC 205201
(202) 647-3417
SeagrovesCC@state.gov

G. MISCELLANEOUS TERMS

No Limit on Authority. Nothing in this MOA shall be construed as limiting or affecting the legal authorities of the Parties, or as requiring the parties to perform beyond their respective authorities.

H. STANDARD CLAUSES

1. Non-Discrimination. All activities pursuant to this MOA shall be in compliance with the requirements of Executive Order 11246, as amended; Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. §§ 2000d et seq.); Title V, Section 504 of the Rehabilitation Act of 1973, as amended (87 Stat. 394; 29 U.S.C. § 794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §§ 6101 et seq.); and all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age or sex.
2. Anti-Deficiency Act – 31 U.S.C. § 1341. Nothing contained in this MOA shall be construed as binding the Parties to expend in any fiscal year any sum of money in excess of appropriations made by Congress for the purposes of this MOA, or other obligation for the further expenditure of money in excess of such appropriations.

IN WITNESS THEREOF, the Parties hereto have caused this MOA to be executed by their duly authorized representatives.



Marcel C. Acosta
Executive Director

National Capital Planning Commission

Date:

Feb 27, 2017

cc: Anne R. Schuyler, Esq.
General Counsel
National Capital Planning Commission

Mary Catherine Malin, Esq.
Assistant Legal Adviser for
Diplomatic Law and Litigation (L/DL)
United States Department of State



Clifton C. Seagroves
Director (Acting)

Office of Foreign Missions
U.S. Department of State

Date:

2/27/17